

**GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT**

(G.O. Rt. No. 28/Lab./AIL/T/2016, dated 6th May 2016)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 10/2014, dated 29-3-2016 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Vaigai Industries, Karaikal and its worker Thiru U. Ravi over reinstatement with backwages has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour), that the said award shall be published in the Official Gazette, Puducherry.

(By order)

E. VALLAVAN,
Commissioner of Labour-cum-
Additional Secretary to Government (Labour).

**BEFORE THE LABOUR COURT
AT PONDICHERRY**

Present : Thiru **N. SIVAKUMAR**, B.A., M.L.,
Presiding Officer, Labour Court.

Tuesday, the 29th day of March 2016

I.D. (L) No. 10/2014

U. Ravi,
S/o. Utrapathi,
Melavelankudi Post,
Nannilam Taluk,
Thiruvarur District. .. Petitioner

Versus

The Managing Director,
M/s. Vaigai Industries,
Melakasakudi,
Karaikal. .. Respondent.

This industrial dispute coming on this day before me for hearing in the presence of Thiru S. Ramar, Representative for the petitioner, Thiruvallargal V.O.S. Kalaiselvam, R. Thambiraj and A. Gnanarajan, Counsel for the respondent, respondent called absent and set *ex parte*, upon perusing the case records, this Court passed the following:

AWARD

This industrial dispute has been referred as per the G.O. Rt. No.12/AIL/Lab./J/2014, dated 5-2-2014 for adjudicating the following:-

(1) Whether the dispute raised by the petitioner Thiru U. Ravi over reinstatement with backwages against the management of M/s. Vaigai Industries, Karaikal is justified?

(2) If justified, what relief he is entitled to?

(3) To compute the relief, if any awarded in terms of money, if it can be so computed?

2. The averments made in the claim statement are briefly stated as follows:-

2 (i) Petitioner was appointed in the respondent management in the year 1999 as a Fitter Mechanic and he was promoted as a Foreman on 1-4-2001 and he was given monthly salary of ₹ 8,000. The petitioner was suffering with some ailments, so, after informing the management he availed medical leave. After recovery when the petitioner attended for duty on 7-4-2006, he was not allotted any work. The management insisted the petitioner to give an undertaking that he would not avail any leave in the near future and also obtained his signatures in several blank papers and typed papers. Believing the words of the management, the petitioner affixed his signatures in some blank and typed papers. But, the respondent management did not allot any work for one year even after executing, undertakings. The provident fund amount of the petitioner was dispatched to him and when the petitioner questioned about the same he was informed that he would be observed after getting necessary instructions from the Managing Director. Later, the petitioner came to know that CBI Registered a case against the Managing Director of the respondent, So, he was not in a mood to consider the request of the petitioner. Thereafter, the petitioner sent a letter, dated 10-9-2012 requesting the management to dispose his gratuity amount. As the respondent did not reply, the petitioner has raised industrial dispute. The management submitted objections before the Conciliation Officer by stating that the petitioner joined duty on 1-4-2002 and resigned his job on 4-1-2006, and also received provident fund and other benefits. The petitioner filed reply statement before the Conciliation Officer by mentioning that he did not submit any resignation letter and his signatures obtained in many papers had been manipulated as a resignation letter. As no

settlement was reached out before the Conciliation Officer, the dispute has been referred to this Court. The petitioner is illiterate person, and he did not know the contents of the letters in which he affixed his signatures. So, the respondent management may be directed to reinstate the petitioner with full backwages and continuity of service and other attendant benefits.

3. Despite several adjournments, no counter was filed on behalf of the respondent since the respondent remained *ex parte*.

4. On the side of the petitioner, the petitioner U. Ravi himself has been examined as PW.1 and Ex.P1 to Ex.P5 were marked.

5. *The point for consideration is:*

Whether the petitioner has to be reinstated in the respondent management with backwages, continuity of service and other attendant benefits as prayed for?

6. *On this point:-*

Heard learned Counsel on record for the petitioner and perused oral testimony of PW.1 and documentary evidence, namely, Ex.P1 to P5. Ex.P1 is the ID Card pertaining to the petitioner issued by the respondent management. The designation as of the petitioner and his date of joining duty is 1-4-2001 are mentioned in Ex.P1. Ex.P2 is the letter submitted by the petitioner to the respondent management requesting to reinstate him and claimed pay for the period of non-employment. The respondent management has submitted Ex.P3 representation along with copy of the resignation letter, relieving order, EPF claim Form, and the bank account details of the petitioner to show that the petitioner had already resigned his job. It is specifically averred by the respondent that the petitioner had submitted his resignation letter and it was accepted and relieved with effect from 4-1-2006, and consequently relieving order was issued. The petitioner had submitted Employees' provident fund claim Forms, and received the amounts and submitted requisition for gratuity payment. As the petitioner did not complete five years continuous service, he was not entitled to claim gratuity.

7. The petitioner has raised the industrial dispute by submitting Ex.P4 representation. The respondent management filed reply, dated 26-10-2012 by mentioning that due to personal reasons the petitioner resigned his job on 4-1-2006 and he was relieved with effect from 4-1-2006. The petitioner after voluntarily resigning employment, submitted his provident fund claim Form 19 and 10(c), wherein, he had mentioned his date of joining as 1-4-2001

and date of relieving as 4-1-2006, and the reasons for his separation from employment as resigned from service. The management processed his claim Form and the EPF amount was settled through remittance to the bank account S.B. A/c.No.79855 of the petitioner in the Urban Co-operative Bank, Karaikal. The management has submitted copy of resignation letter, relieving order given by the management, copy of the EPF claim Form and copy of letters given by the petitioner in favour of the respondent management.

8. Despite several repeated adjournments the respondent failed to appear before this Court and to contest the matter to filing counter statement, So, the respondent has been set *ex parte*.

9. The petitioner Thiru U. Ravi has deposed as PW.1 and in-support of his contention he was produced Ex.P1 to P5. The petitioner has contended that he joined duty in the respondent management in the year 1999, and he was promoted as Foreman on 1-4-2001. The petitioner has not produced any records to show that he was not working in the respondent management since 1999, and thereafter, he was promoted as Foreman on 1-4-2001.

10. The respondent management has objected the petitioners claim before the Conciliation Officer by specifically stating that the petitioner had already resigned by submitting resignation letter, dated 4-1-2006 and it was duly processed and approved and necessary relieving order was issued. The copy of the resignation letter, dated 4-1-2006 and relieving order on the same day has been produced by the respondent and available in the records. Further, the petitioner received his provident fund claim by submitting necessary application through the management and this is also admitted by the petitioner. The respondent management has submitted a representation, dated 6-2-2013 before the Conciliation Officer along with relevant records relating to the petitioner's resignation, relieving order, employees provident fund claim Form, etc., Further, the petitioner was a habitual absentee without any information and he had given several apologising letters to the management and these facts have been mentioned in the representation letter submitted by the management to the Conciliation Officer. It is evident that the petitioner had resigned his job on 4-1-2006 and he was duly relieved on the same way. On the basis of the claim Form submitted by the petitioner, the provident fund amount was settled and the amounts were deposited into his bank accounts. The petitioner admits that he received provident fund amount. Petitioner's specific contention is that the management obtained his signatures in several papers and printed Forms by fraud

and as an illiterate person he could not read and understand the contents of the letters wherein, his signatures were obtained. Though the petitioner has stated that he made several attempts for reinstatement he has not produced any records to show that he was persistently making representations for his reinstatement.

11. According to the management, the petitioner resigned his job with effect from 4-1-2006. The petitioner has raised the industrial dispute by submitting Ex.P4 representation in the year 2013. So, nearly, after seven years, the petitioner has raised the industrial dispute of non-employment. The petitioner has not offered any explanation for the inordinate delay in making representation before the Conciliation Officer. On the other hand the respondent management has produced copy of the resignation letter, relieving order and other records pertaining to the petitioner before the Conciliation Officer.

12. Though the respondent remains *ex parte*, the petitioner is bound to substantiate his claim of reinstatement and other benefits. It is clear from the materials available on record, that the petitioner had already resigned his job by submitting resignation letter, dated 4-1-2006 and it was duly accepted by the respondent management and relieved the petitioner from service on the same day. The petitioner has received provident fund amount by submitting necessary application. Now, the petitioner has contended that by playing fraud and forgery by the respondent the resignation letter, provident fund Forms have been manipulated by the management. The petitioner has not stated any acceptable reasons as to why the management manipulated and fabricate records against him?. The petitioner who resigned job in the year 2006, has raised the industrial dispute in the year 2013 by stating that the management has fabricated records to show as if he resigned from service. The petitioner miserably failed to establish that his signature found in resignation letter, provident fund Form and other apology letters have been forged by the respondent management. The respondent management after carefully considering the resignation letter of the petitioner accepted the same and relieved him from service with effect from 4-1-2006. Thereafter, petitioner's provident fund claim has been processed and the amount has been credited in this account. The petitioner belatedly approached the Conciliation Officer in the year 2013 seeking reinstatement by stating that the respondent management manipulated and fabricated the

same records. The petitioner's contention cannot be accepted since there is no proof for the same. Hence, I hold that the petitioner is not entitled to claim reinstatement and accordingly, this industrial dispute is liable to be dismissed.

13. In the result, this industrial dispute is dismissed. The respondent is directed to disburse gratuity amount to the petitioner within one month.

Dictated to the Stenographer transcribed by her, corrected and pronounced by me in open Court on this 29th day of March, 2016.

N. SIVAKUMAR,
Presiding Officer,
Labour Court, Pondicherry.

List of petitioner's witness:

PW.1 — 27-2-2015 — U. Ravi (Petitioner)

List of respondent's witnesses: Nil

List of petitioner's exhibits:

- Ex.P1 — Copy of the petitioner's identity card issued by the respondent. (Photocopy)
- Ex.P2 — Copy of the letter raising industrial dispute before the Labour Officer (Conciliation), Labour Department, Karaikal, dated 8-10-2012. (Photocopy)
- EX.P3 — Copy of the letter issued by the respondent Management to the Labour Officer (Conciliation), Labour Department, Karaikal, dated 6-2-2013. (Photocopy)
- EX.P4 — Copy of the letter issued by the petitioner to the Labour Officer (Conciliation), Labour Department, Karaikal, dated 6-5-2013. (Photocopy)
- EX.P5 — Copy of the failure report of Labour Officer (Conciliation), Labour Department, Karaikal, dated 30-9-2013. (Photocopy)

List of respondent's exhibits: Nil.

N. SIVAKUMAR,
Presiding Officer,
Labour Court, Pondicherry.

GOVERNMENT OF PUDUCHERRY

LABOUR DEPARTMENT

(G.O. Rt. No. 29/Lab./AIL/T/2016, dated 6th May 2016)

NOTIFICATION

Whereas, an Award in I.D (L) No. 28/2014, dated 18-3-2016 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Vinayaga Missions Medical College and Hospital, Karaikal and its worker Thiru K. Prakash over reinstatement with backwages has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

E. VALLAVAN,
Commissioner of Labour-cum-
Additional Secretary to Government (Labour).

BEFORE THE LABOUR COURT AT PONDICHERRY

Present : Thiru N. SIVAKUMAR, B.A., M.L.,
Presiding Officer, Labour Court.

Friday, the 18th day of March 2016

I.D. (L) No. 28/2014

K. Prakash,
S/o. Krishnamoorthy,
Hindu, aged about 37 years,
No.29, Mariamman Koil Street,
Periyapet, Karaikal. . . Petitioner

Versus

The Managing Director,
M/s. Vinayaka Missions Medical
College and Hospital,
Karaikal. . . Respondent.

This industrial dispute coming on 4-3-2016 for final hearing before me in the presence of Thiru N. Ramar, representative for the petitioner, Tvl. R. Ilanchelian and R. Thilagavathi, Counsel for the respondent and upon hearing both sides, perusing the case records and having stood over till this day for consideration, this Court delivered the following:

AWARD

This industrial dispute has been referred as per the G.O. Rt. No. 36/AIL/Lab./J/2014, dated 6-3-2014 for adjudicating the following:-

1. Whether the dispute raised by Thiru. K. Prakash against the management of M/s.Vinayaga Missions Medical College and Hospital, Karaikal over reinstatement with backwages is justified?

2. If justified, to what relief, the petitioner is entitled to?

3. To compute the relief, if any awarded in terms of money, if it can be so computed?

2. The averments made in the claim statement are briefly stated as follows:-

2(i) In the year 1998, the petitioner was appointed in the respondent management, namely, M/s. Vinayaka Missions Medical College and Hospital, Karaikal. On 06-05-2002, the petitioner was made as permanent worker (Attender) in Animal Husbandry Department with monthly salary of ₹ 3,000. On 26-12-2004 huge waves of Tsunami entered into the respondent hospital and the petitioner suffered a lot. The petitioner lost his bi-cycle in the Tsunami, and his health condition was also affected. As petitioners health condition was deteriorating he sent a letter on 31-1-2005 and applied for leave. Thereafter, the petitioner sent a leave letter through his mother but, the respondent management refused to receive the same. During the course of his treatment the petitioner persistently contacted his supervisor over phone and informed his health condition and sought for medical leave. After recovery, the petitioner went to work on 19-7-2005, but, the respondent management did not allot any work to the petitioner. As the respondent management was not willing to reinstate the petitioner, he raised an industrial dispute on 15-7-2013 before the Conciliation Officer. The respondent management submitted his objections, dated 24-9-2013 by stating that as the petitioner was absent without prior intimation till 31-1-2005, a show cause notice, dated 15-2-2005 was sent to him, and it was returned as refused. As there was no response from the petitioner his service was terminated with effect from 1-5-2005, and due intimation, in this regard was sent to him, but it was also returned with endorsement as refused. No settlement was arrived at before the Conciliation Officer, so, the dispute has been referred to this Court for adjudication.

2(ii) The respondent management without conducting any enquiry has dismissed the petitioner. The conduct of the respondent is dismissing in the petitioner is against natural justice and also amounts

to victimisation and unfair labour practice. So, the petitioner prays for reinstatement with full backwages with continuity of service and other attendant benefits.

3. The averments made in the counter are briefly stated as follows:-

3(i) The petitioner worked as a Attender and he was in the habit of habitual absenteeism. The respondent gave several opportunities to correct himself but, the petitioner has failed to mend his ways and he was unauthorisedly absent from 31-1-2005 onwards. The petitioner was absent without submitting necessary leave application or any prior intimation. So, a show cause notice, dated 15-2-2005 was sent him by registered post and it was returned, on 26-2-2005 with endorsement as refused. As the petitioner has neither reported for work nor submitted any reply to the letter sent to him, it was presumed that he did not have any reason to inform to the management for his continuous absence. Therefore, his services were terminated with effect from 1-5-2005. The petitioner was duly informed regarding his termination by an order, dated 2-5-2005 by registered post, and this letter has also been returned as 'refused'.

3(ii) The petitioner having remained silent for more than six years has now raised the industrial dispute alleging that the respondent management prevented him for attending duty. The case of the petitioner is purely voluntary absenteeism of duties and will not come within the parameter of refusal of employment or non-employment. The petitioner is not entitled for re-employment for backwages and other pecuniary benefits. The petition is devoid of merits and liable to be dismissed.

4. On the side of the petitioner Thiru K. Prakash (petitioner) has deposed as PW.1 and Ex.P1 to P8 were marked. On the side of the respondent no oral or documentary evidence was adduced.

5. *The point for consideration:*

Whether the petitioner is entitled to seek reinstatement with backwages and other pecuniary benefits as prayed for?

6. *On this point:*

According to petitioner he was appointed as a labourer in the respondent management, namely, Vinayaka Missions Medical College and Hospital, Karaikal, in the year 1998. After successfully completing probationary period, he was posted as a permanent worker as a Sub-Staff in Grade JM-I as per the order of

the respondent, dated 5-6-2002 issued by the respondent. The copy of the order is produced as Ex.P1 and it is seen from the order that the petitioner has successfully completed his probationary period and his service was confirmed as a Sub-Staff in the respondent management. The terms and conditions of employment are enclosed with Ex.P1 letter. The respondent hospital was affected by the Tsunami floods and the petitioner lost his bicycle. So, the petitioner has submitted Ex.P2 letter stating that he lost his bicycle in the floods, and sought for necessary assistance. The management has considered request and the petitioner and allotted bicycle to him as seen from the endorsement made on Ex.P2 letter.

7. The petitioner while deposing as PW.1 has stated that after Tsunami his health condition was affected badly and he could not attend work, so, he informed his supervisor over phone and sought for leave. Ex.P3 series is the medical certificates for extension of leave for different spells. The petitioner has sent Ex.P8 letter, dated 17-9-2005 stating that he was fit to join duty, and be permitted to continue his work.

8. The respondent management did not consider the request of petitioner nor permitted him to join duty. So, the petitioner has submitted Ex.P4 representation, dated 15-7-2013 before the Conciliation Officer raising the industrial dispute over his non-employment. The respondent has submitted Ex.P5 objections stating that the petitioner was continuously absent since 31-1-2005 and as the petitioner did not approach the respondent management to join duty, his services were terminated with effect from 1-5-2005. As the respondent management was reluctant to reinstate the petitioner, no settlement was arrived at before the Conciliation Officer and Ex.P6 Failure Report, dated 17-12-2013 was sent to the Government and consequently, reference has been made to this Court for adjudicating the industrial dispute raised by the petitioner. The copy of the reference, dated 6-3-2014 has been produced as Ex.P7.

9. During when the matter was posted for cross-examination PW.1 by the respondent management, the representative of the petitioner submitted that without insisting for backwages and continuity of service and other pecuniary benefits, reinstatement of petitioner may be considered sympathetically. The learned counsel representing the respondent management, after receiving instructions from the respondent, informed the Court that the petitioner can be reinstated without backwages or any other benefits.

10. The petitioner has contended that on medical grounds only he availed leave for many spells continuously and immediately after recovery he approached the respondent management and sought

permission to join duty, but, the respondent management declined to allot work to him. There is no proof to hold that the petitioner duly informed his health condition to the respondent management and sought for leave on medical grounds. The notice and the termination order sent to the petitioner have been returned to the management with endorsement as 'refused'. So, the respondent has no other option except to terminate services of the petitioner, since he was unauthorisedly absent for several months together.

11. The petitioner without contesting the matter on merits has submitted that he may be reinstated without backwages and other benefits claimed by him. The respondent management is ready to reinstate the petitioner but, without backwages, continuity of service and other pecuniary benefits claimed by the petitioner. So, considering the plea in the light of the documentary evidence produced and also as conceded by the respondent, and on the principle of no work no pay. I hold the reinstatement of the petitioner alone has to be ordered.

12. In the result, this industrial dispute is partly allowed and the respondent management is directed to reinstate the petitioner within a period of one month, from the date of this order and the petitioner is not entitled for the benefits of backwages, continuity of service, and other pecuniary benefits.

Dictated to the Stenographer transcribed by her, corrected and pronounced by me in open Court on this the 18th day of March, 2016.

N. SIVAKUMAR,
Presiding Officer,
Labour Court, Pondicherry.

List of petitioner's witness:

PW.1 — 27-2-2015 — K. Prakash (Petitioner)

List of respondent's witnesses: Nil

List of petitioner's exhibits:

Ex.P1 — Copy of the Appointment Order of K. Prakash, dated 5-6-2002 (Photocopy).

Ex.P2 — Copy of the letter issued by the petitioner to the respondent management and sought for necessar assistance, dated 18-1-2005 (Photocopy).

Ex.P3 — Copy of the Medical Certificate for leave in Form-4 of the Petitioner, dated 31-5-2005, 21-5-2005, 16-7-2005 (Photocopy).

Ex.P4 — Copy of the letter raising industrial dispute before the Labour Officer (Conciliation), Labour Department, Karaikal, dated 15-7-2013 (Photocopy).

Ex.P5 — Copy of the letter issued by the respondent Management to the Labour Officer (Conciliation), Labour Department, Karaikal, dated 24-9-2013 (Photocopy).

Ex.P6 — Copy of the failure report of Labour Officer (Conciliation), Labour Department, Karaikal, dated 17-12-2013 (Photocopy).

Ex.P7 — Copy of the Notification under G.O. Rt.No.36/ AIL/Lab./J/2006, dated 6-3-2014 in Labour Department, Puducherry, dated 6-3-2014 (Photocopy).

Ex.P8 — Copy of the letter issued by the petitioner to the Respondent management (He is fit to join duty and permitted to continue his work), dated 17-9-2005 (Photocopy).

List of respondent's exhibits : Nil

N. SIVAKUMAR,
Presiding Officer,
Labour Court, Pondicherry.

GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 30/Lab./AIL/T/2016, dated 16th May 2016)

NOTIFICATION

Whereas,an Award in I.D (L) No. 42/2014, dated 18-03-2016 of the Labour Court, Puducherry in respect of the industrial dispute between the management of M/s. Vinayaka Missions Medical College and Hospital, Karaikal and its worker Thiru B. Irudhayaraj over non- employment has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991, it is hereby directed by the Secretary to Government (Labour), that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

E. VALLAVAN,
Commissioner of Labour-cum-
Additional Secretary to Government (Labour).

**BEFORE THE LABOUR COURT
AT PONDICHERRY**

*Present : Thiru N. SIVAKUMAR, B.A., M.L.,
Presiding Officer, Labour Court.*

Friday, the 18th day of March 2016

I.D. (L) No. 42/2014

B. Irudhayaraj,
S/o. Balu,
Block-C2, No.2, Anbu Nagar,
Thalatheru Post,
Karaikal.

. . Petitioner

Versus

The Managing Director,
M/s. Vinayaka Missions
Medical College and Hospital,
Keezhakasakudimedu,
Kottucherry Post, Karaikal.

. . Respondent

This industrial dispute coming on 4-3-2016 for final hearing before me in the presence of Thiru N. Ramar, representative for the petitioner, Tvl. R. Ilancheliyan and R. Thilagavathi, Counsel for the respondent and upon hearing both sides, perusing the case records and having stood over till this day for consideration, this Court delivered the following:-

AWARD

This industrial dispute has been referred as per the G. O. Rt. No.121/AIL/Lab./J/2014, dated 19-8-2014 for adjudicating the following:-

(1) Whether the dispute raised by Thiru B. Irudayaraj against the management of M/s. Vinayaga Missions College and Hospital, Karaikal over non-employment is justified? If justified, what relief he is entitled to?

(2) To compute the relief, if any awarded in terms of money, if it can be so computed?

2. The averments made in the claim statement filed by the petitioner are briefly stated as follows:-

2(i) Petitioner Thiru B. Irudhayaraj was appointed in the respondent management M/s. Vinayaga Missions Medical College and Hospital, Karaikal on monthly wages of ₹ 3,500 and he was posted in the X-Ray section on 19-11-2010 when the petitioner had gone to his house for lunch his two-wheeler got faulted, so, he could not return to work within the time. When the petitioner went to attend duty on the next day the management did not allow him to work. So, the petitioner approached the Executive Officer, and he told that after consulting the General Manager, he would intimate within one month. After one month the petitioner approached the Executive Officer but, he did not reply properly. Several

attempts made by the petitioner to get reinstatement ended in vain. So, the petitioner has no other option except to represent before the Conciliation Officer by raising industrial dispute on 12-7-2013. As the respondent management was not ready to reinstate the petitioner, the conciliation entered in failure and the failure on conciliation report, dated 30-7-2014 was sent to the Government. The respondent management has illegally terminated services of the petitioner by falsely stating that he was unauthorisedly absent without any prior permission. No show cause notice was issued to petitioner nor any enquiry was conducted. Without following the rules and procedure the respondent management has dismissed the petitioner illegally and the act of the respondent amounts to violation of natural justice, victimisation and unfair labour practice. The termination of petitioner is against the provision of section 25-F of Industrial Disputes Act. So, the petitioner prays for reinstatement with full backwages, continuity of service and other attendant benefits.

3. The averments made in the counter filed by the respondent are briefly stated as follows:-

3(i) The petitioner was working as a casual labour upto November 2010. Subsequently he did not report for work for reasons best known to him. The petitioner having kept silent for about three years has now falsely claimed that he has been prevented from employment. The respondent never denied employment to the petitioner. The petitioner was engaged only as a casual labour on daily wage basis, and his engagement was purely on need basis. The employer employee relationship starts when he reports for work and ends on that day when he completes his work. The petitioner having failed to report for work on his own accord for more than three years cannot claim re-employment as a matter of right. Only due to voluntary act of the petitioner, he has already lost his lien, and there is no justification in the claim of the petitioner either under the law or in fact. The petitioner is not entitled for re-employment, backwages or any other monetary benefits as claimed in the petition. The petition is devoid of merits and liable to be dismissed.

4. On the side of the petitioner Thiru B. Irudhayaraj (Petitioner) has deposed as PW.1 and EX.P1 to P5 were marked. On the side of the respondent no oral or documentary evidence was adduced.

5. *The point for consideration:*

Whether the petitioner has to be reinstated with backwages, continuity of service and other monetary benefits as claimed by him?

6. *On this point:-*

Petitioner, namely, B. Irudhayaraj was appointed in the year 2005 as a casual labour on daily basis in the respondent management, namely, M/s. Vinayaka Missions Medical College and Hospital, Karaikal and he was getting monthly wages of ₹ 3,500 According to the petitioner that on 19-11-2010 during lunch break he had gone to his house for lunch and while returning to his two wheeler got faulted, so, he could not report duty on that day. He has further, contended that when he reported duty on the next day, no work was allotted to him and the management did not properly respond for his requests and he was waiting for many years. As the respondent denied employment to him, he approached the Conciliation Officer by filing Ex.P1 representation to consider his prayer and for re-employment. The respondent by reply, dated 26-8-2013 has specifically contended that the petitioner was working upto November 2010 and thereafter, he did not report for duty and the petitioner neither approached the management for any employment, nor submitted any representation for his absence and failure to report duty. According to the respondent the petitioner voluntarily abandoned his duty and intentionally failed to report work. Again, the petitioner has sent Ex.P3 representation, dated 26-9-2013 to the Conciliation Officer. The Conciliation Officer considered the representation of the petitioner and the objection raised by the respondent and finally sent the failure on Conciliation report, dated 30-7-2014 marked as Ex.P4. In pursuance of the Conciliation failure report, Labour Department has issued notification in G. O. Rt. No.121/AIL/Lab./J/2014, dated 19-8-2014 by raising industrial dispute relating to the petitioner and referred to this Court for adjudication.

7. The petitioner though contended that the management did not allot him work from 20-11-2010 he has raised the industrial dispute nearly after three years by submitting Ex.P1 application in July 2013. The petitioner has not produced any records to show that he was persistently attempted to get work in the respondent management. Further, there is no acceptable evidence to hold that the respondent denied employment to the petitioner.

8. During the course of trial the learned Counsel for the respondent fairly conceded to reinstate the petitioner as a casual worker without providing the benefits such as backwages, continuity of service and other monetary concessions. The petitioner has also expressed his willingness to join duty and to carry on work without claiming backwages, continuity of service and other monetary benefits. The learned Counsel for the respondent pointed out that on the principle of no work, no pay, the petitioner is not entitled to claim backwages. The petitioner has also agreed to join duty

without claiming backwages and other monetary benefits. So, I hold that the respondent may be directed to reinstate the petitioner without the benefits of backwages, continuity of service and other monetary benefits. Accordingly, I answer this point that the petitioner is entitled for the relief of reinstatement only, without backwages, continuity of service and other monetary benefits.

9. In the result, this industrial dispute is partly allowed thereby, directing the respondent management to reinstate the petitioner within a period of one month without backwages, continuity of service and other monetary benefits.

Dictated to the Stenographer transcribed by her, corrected and pronounced by me in open Court on this the 18th day of March, 2016.

N. SIVAKUMAR,
Presiding Officer,
Labour Court, Pondicherry.

List of petitioner's witness:

PW.1 — 27-2-2015 — B. Irudhayaraj (Petitioner)

List of respondent's witnesses: Nil

List of petitioner's exhibits:

- Ex.P1 — Copy of the letter raising industrial dispute before the Labour Officer (Conciliation), Labour Department, Karaikal, dated 12-7-2013. (Photocopy)
- Ex.P2 — Copy of the letter issued by the respondent Management to the Labour Officer (Conciliation), Labour Department, Karaikal, dated 26-8-2013. (Photocopy)
- Ex.P3 — Copy of the letter issued by the petitioner to the Labour Officer (Conciliation), Labour Department, Karaikal, dated 26-9-2013. (Photocopy)
- Ex.P4 — Copy of the failure report of Labour Officer (Conciliation), Labour Department, Karaikal, dated 30-7-2014. (Photocopy)
- Ex.P5 — Copy of the Notification under G.O.Rt.No.121/AIL/Lab./J/2014, dated 19-8-2014 in Labour Department, Puducherry 19-8-2014. (Photocopy)

List of respondent's Exhibits: Nil.

N. SIVAKUMAR,
Presiding Officer,
Labour Court, Pondicherry.